

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

MOREHOUSE ENTERPRISES, LLC d/b/a BRIDGE CITY ORDNANCE; ELIEZER JIMENEZ; GUN OWNERS OF AMERICA, INC.; GUN OWNERS FOUNDATION; STATE OF ARIZONA; STATE OF WEST VIRGINIA; STATE OF ALASKA; STATE OF ARKANSAS; STATE OF IDAHO; STATE OF INDIANA; STATE OF KANSAS; COMMONWEALTH OF KENTUCKY; STATE OF LOUISIANA; STATE OF MISSOURI; STATE OF MONTANA; STATE OF NEBRASKA; STATE OF OKLAHOMA; STATE OF SOUTH CAROLINA; STATE OF TEXAS; STATE OF UTAH; and STATE OF WYOMING,

Plaintiffs-Appellants,

v.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES; UNITED STATES DEPARTMENT OF JUSTICE; and STEVEN M. DETTELBACH as the DIRECTOR OF ATF,

Defendants-Appellees.

On Appeal from the United States District Court
for the District of North Dakota
The Honorable District Court Judge Peter D. Welte
Case No. 3:22-cv-116

APPELLANTS' UNOPPOSED JOINT MOTION
FOR DIVIDED ARGUMENT

Pursuant to Federal Rule of Appellate Procedure 34(b), Eighth Circuit Rule 34A(c), and Eighth Circuit Internal Operating Procedure L.5, Appellants respectfully move for (1) an additional five minutes of argument time and (2) divided oral argument. This consolidated case arises

from two separate appeals: one brought by a multi-State coalition and the other brought by private parties. Currently, Appellants are only allowed fifteen minutes. Appellants respectfully request that the time at oral argument be increased to by five minutes to twenty minutes and divided equally between the two sets of Appellants, with ten minutes allotted to the State Appellants and ten minutes allotted to the Private Appellants.

Dividing argument time as proposed will ensure that each set of Appellants may present their independent interests and that the Court will receive the benefit of Appellants' distinct perspectives and arguments. This is particularly true here, where one set of Appellants includes sovereign states with unique interests that private parties cannot adequately represent.

For example, as noted in briefing, both the Private Appellants and the State Appellants suffer different irreparable harms stemming from the Final Rule. The seventeen State Appellants rely on their independent licensing schemes to promote public safety, and many of them have specific state laws that will be affected by the Final Rule. The State Appellants, furthermore, will suffer unique financial harm under the Final

Rule. These interests are best represented by counsel for the State Appellants, rather than counsel for the Private Appellants. Likewise, Private Appellants assert harms to individual gun owners and businesses that the State Plaintiffs cannot adequately represent.

The undersigned has conferred with opposing counsel in this case who do not oppose the relief sought in this request.

DATED this 23rd day of February 2023.

Respectfully submitted,

/s/ Kathleen L. Smithgall

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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts exempted by Fed. R. App. P. 32(f), it contains 255 words as determined by the word-counting feature of Microsoft Word 365.

This motion also complies with the requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared using Microsoft Word 365 in 14-point proportionally spaced Century Schoolbook font.

And this motion complies with the electronic-filing requirements of Local Rules 28A(h)(2) because it was scanned for viruses using Windows Defender and no virus was detected.

/s/ Kathleen L. Smithgall
KATHLEEN L. SMITHGALL

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2023, an accurate copy of the foregoing document was served electronically through the Court's CM/ECF system on registered mail.

/s/ Kathleen L. Smithgall
KATHLEEN L. SMITHGALL